

House File 2421 - Introduced

HOUSE FILE 2421
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 571)

A BILL FOR

1 An Act relating to transfer of guardianship in child in need of
2 assistance proceedings.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 232.101A Transfer of guardianship
2 to custodian.

3 1. After a dispositional hearing the court may enter an
4 order transferring guardianship of the child to a custodian if
5 all of the following conditions are met:

6 a. The person receiving guardianship meets the definition
7 of custodian in section 232.2.

8 b. The person receiving guardianship has assumed
9 responsibility for the child prior to filing of the petition
10 under this division and has maintained placement of the child
11 since the filing of the petition under this division.

12 c. The parent of the child does not appear at the
13 dispositional hearing, or the parent appears at the
14 dispositional hearing, does not object to the transfer of
15 guardianship, and agrees to waive the requirement for making
16 reasonable efforts as defined in section 232.102.

17 2. If the court transfers guardianship pursuant to
18 subsection 1, the court may close the child in need of
19 assistance case by transferring jurisdiction over the child's
20 guardianship to the probate court. The court shall inform the
21 proposed guardian of the guardian's reporting duties under
22 section 633.669 and other duties under chapter 633. Upon
23 transferring jurisdiction, the court shall direct the probate
24 clerk, once the proposed guardian has filed an oath of office
25 and identification in accordance with section 602.6111, to
26 issue letters of appointment for guardianship and docket the
27 case in probate. Records contained in the probate case file
28 that were copied or transferred from the juvenile court file
29 concerning the case shall be subject to section 232.147 and
30 other confidentiality provisions of this chapter for cases not
31 involving juvenile delinquency.

32 Sec. 2. Section 633.675, subsection 2, Code 2014, is amended
33 to read as follows:

34 2. Notwithstanding subsection 1, paragraphs "a" through
35 "d", if the court appointed a guardian for a minor child for

1 whom the court's jurisdiction over the child's guardianship
2 was established pursuant to transfer of the child's case in
3 accordance with section 232.101A or 232.104, the court shall
4 not enter an order terminating the guardianship before the
5 child becomes age eighteen unless the court finds by clear
6 and convincing evidence that the best interests of the child
7 warrant a return of custody to the child's parent.

8 Sec. 3. Section 633.679, subsection 2, Code 2014, is amended
9 to read as follows:

10 2. Unless the child or guardian dies or other exceptional
11 circumstances arise, if the court has appointed a guardian
12 for a minor child for whom the court's jurisdiction over the
13 child's guardianship was established pursuant to transfer
14 of the child's case in accordance with section 232.101A
15 or 232.104, a petition shall not be filed asking that the
16 guardianship be terminated or modified until at least six
17 months has elapsed from the date the order was entered
18 appointing the guardian.

19 EXPLANATION

20 The inclusion of this explanation does not constitute agreement with
21 the explanation's substance by the members of the general assembly.

22 This bill relates to transfer of guardianship in child in
23 need of assistance proceedings. Currently, a court must enter
24 the least restrictive disposition that is appropriate following
25 a hearing on the child in need of assistance petition. These
26 dispositions include a suspended judgment, the retention of
27 custody by a parent, and the transfer of legal custody of the
28 child. The bill adds another disposition: the transfer of
29 guardianship of the child. The bill allows the transfer of
30 guardianship of a child to a custodian after the dispositional
31 hearing if the person receiving guardianship meets the
32 statutory definition of a custodian, the person receiving
33 guardianship has assumed responsibility for the child prior to
34 the filing of the child in need of assistance petition and has
35 maintained responsibility for the child after the filing of the

1 petition, and the parent of the child either does not appear
2 at the dispositional hearing or the parent appears and does
3 not object to the transfer of guardianship and agrees to waive
4 the requirement for making reasonable efforts to prevent or
5 eliminate the need for removal of the child from the child's
6 home.

7 The bill also states that if the court transfers
8 guardianship pursuant to the bill, the court may close the
9 child in need of assistance case by transferring the case to
10 probate court. The court has the responsibility to inform the
11 guardian of the statutory reporting requirements and other
12 duties of the guardianship.

13 The bill makes conforming changes.